

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

Blue Spike, LLC,

Plaintiff,

v.

Texas Instruments, Inc., et al.,

Defendants.

CASE NO. 6:12-cv-499 MHS

LEAD CASE

Jury Trial Demanded

Blue Spike, LLC,

Plaintiff,

v.

NEC Corporation of America, et al.,

Defendants.

CASE NO. 6:12-cv-690 MHS

CONSOLIDATED CASE

Jury Trial Demanded

**PLAINTIFF'S REPLY IN RESPONSE TO
DEFENDANT NEC'S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of NEC Corporation of America and NEC Corporation ("NEC" or "Defendants") (Dkt. No. 453) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

COUNTERCLAIMS

- 77. Paragraph 77 contains no allegations requiring an admission or denial.
- 78. Plaintiff admits the allegations of Paragraph 78, upon information and belief.
- 79. Plaintiff admits the allegations of Paragraph 79, upon information and belief.
- 80. Plaintiff admits the allegations of Paragraph 80.

JURISDICTION AND VENUE

81. Plaintiff admits the allegations of Paragraph 81.

FIRST COUNTERCLAIM: DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '175 PATENT

82. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 77 through 81 above.

83. Plaintiff denies the allegations of Paragraph 83.

84. Plaintiff denies the allegations of Paragraph 84.

SECOND COUNTERCLAIM: DECLARATORY JUDGMENT OF INVALIDITY OF THE '175 PATENT

85. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 77 through 81 above.

86. Plaintiff admits the allegations of Paragraph 86.

87. Plaintiff denies the allegations of Paragraph 87.

88. Plaintiff denies the allegations of Paragraph 88.

THIRD COUNTERCLAIM: DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '494 PATENT

89. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 77 through 81 above.

90. Plaintiff denies the allegations of Paragraph 90.

91. Plaintiff denies the allegations of Paragraph 91.

FOURTH COUNTERCLAIM: DECLARATORY JUDGMENT OF INVALIDITY OF THE '494 PATENT

92. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 77 through 81 above.

93. Plaintiff admits the allegations of Paragraph 93.

94. Plaintiff denies the allegations of Paragraph 94.

95. Plaintiff denies the allegations of Paragraph 95.

**FIFTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '700 PATENT**

96. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 77 through 81 above.

97. Plaintiff denies the allegations of Paragraph 97.

98. Plaintiff denies the allegations of Paragraph 98.

**SIXTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '700 PATENT**

99. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 77 through 81 above.

100. Plaintiff admits the allegations of Paragraph 100.

101. Plaintiff denies the allegations of Paragraph 101.

102. Plaintiff denies the allegations of Paragraph 102.

**SEVENTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '472 PATENT**

103. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 77 through 81 above.

104. Plaintiff denies the allegations of Paragraph 104.

105. Plaintiff denies the allegations of Paragraph 105.

**EIGHTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '472 PATENT**

106. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 77 through 81 above.

107. Plaintiff admits the allegations of Paragraph 107.

108. Plaintiff denies the allegations of Paragraph 108.

109. Plaintiff denies the allegations of Paragraph 109.

PRAYER FOR RELIEF

Plaintiff denies that Defendant is entitled to any of the relief it requests.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to attempt to file this document on February 4, 2013. Unable to file this document on ECF, I emailed a copy to opposing counsel. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser

Randall T. Garteiser